

## Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 SCS-03 SCA-01 JUSE-00 EB-07

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R 081736Z DEC 76

FM AMEMBASSY PARIS

TO SECSTATE WASHDC 7757

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E.O. 11652. N/A

TAGS: PFOR, CPRS, CPAS, FR

SUBJECT: JUDICIAL ASSISTANCE TO GOF IN HOLDER-KERKOW  
AND BROWN ET AL CASES

REF: (A) PARIS 36158, (B) PARIS 6578

1. DISAPPOINTED THOUGH WE ARE THAT US REQUEST FOR EXTRADITION OF BROWN ET AL WAS REFUSED BY GOF, AND WITH FULL KNOWLEDGE THAT TRIAL ABROAD IS NO SUBSTITUTE FOR EXTRADITION AS DETERRENT TO FUTURE HIJACKINGS, WE BELIEVE WE SHOULD NONETHELESS MOVE AS ACTIVELY AND COOPERATIVELY AS POSSIBLE TO ASSIST GOF TO PROSECUTE BOTH BROWN ET AL AND HOLDER-KERKOW CASES UNDER FRENCH LAW AS REQUIRED BY HAGUE CONVENTION. WHILE WE ARE NOT SANGUINE THAT THEY WILL RECEIVE SENTENCES WHICH WE COULD CONSIDER COMMENSURATE WITH THEIR OFFENSES, WE BELIEVE ANY SENTENCE WOULD BE BETTER THAN NONE.

2. IN HOLDER-KERKOW CASE, WE HAVE IMPRESSION FRENCH HAVE BEEN DRAGGING FEET IN PURSUING PRE-TRIAL INVESTIGATION. UNFORTUNATELY US GOVT HAS OFFERED THEM READY EXCUSE BY NOT BEING FULLY RESPONSIVE TO LETTERS ROGATORY FROM FRENCH JUDICIAL AUTHORITIES. TO REVIEW MOVES TO DATE: EXAMINING MAGISTRATE GUY FLOCH PREPARED LETTERS ROGATORY IN JULY 1975. LETTERS WERE TRANSMITTED BY FRENCH EMBASSY WASHINGTON TO DEPARTMENT BY NOTE DATED OCTOBER 1, 1975. IN DECEMBER 16 LETTER JUSTICE INFORMED STATE IT WOULD BE PLEASED TO RECONSIDER  
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FLOCH'S REQUEST FOR JUDICIAL ASSISTANCE UPON RECEIPT  
OF SUPPLEMENTARY INFORMATION SPELLED OUT IN SIX

NUMBERED PARAGRAPHS. JUSTICE REPLY PASSED TO FRENCH EMBASSY BY DEPARTMENT NOTE OF JANUARY 12, 1976. WE UNDERSTAND FROM FLOCH THAT HE PREPARED REPLIES TO JUSTICE QUERIES IN FOUR-PAGE LETTER TO PROCUREUR DE LA REPUBLIQUE DATED MARCH 24, THAT THIS LETTER WAS TRANSLATED INTO ENGLISH IN JUNE AND HAS BEEN TRANSMITTED BY FRENCH EMBASSY TO DEPARTMENT. WE ASSUME IT NOW IN HANDS OF JUSTICE DEPARTMENT. IN ANY CASE, AS OF LAST WEEK, FLOCH WAS AWAITING US RESPONSE.

3. WHATEVER OUR SKEPTISM REGARDING PROSPECTS FOR SEVERE SENTENCES, FACT REMAINS THAT HOLDER-KERKOW IS FIRST CASE OF AMERICANS BEING TRIED IN FRANCE UNDER HAGUE CONVENTION. IN SUCH PRECEDENT CASE, US GOVT SHOULD BE ON RECORD AS HAVING ASSISTED FRANCE TO "GREATEST MEASURE" PER ARTICLE TEN OF HAGUE HIJACKING CONVENTION. GOOD WAY TO BEGIN WOULD BE AN EARLY AND RESPONSIVE REPLY TO LETTERS ROGATORY IN HOLDER-KERKOW CASE, FOLLOWED UP BY PROMPT ACTION ON ANY FURTHER FRENCH REQUESTS IN THIS OR BROWN ET AL CASE. RUSH

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